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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,924	08/23/2001	Horst Clauberg	71348	1406

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EXAMINER

FULLER, RODNEY EVAN

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 05/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/935,924

Applicant(s)

CLAUBERG ET AL.

Examiner

Rodney E Fuller

Art Unit

2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because of the following items:
  - a. The phrase "The present invention relates to an apparatus and method..." can be implied.
  - b. The legal phraseology "said" in lines 4-6 should be avoided.

Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 16-23 rejected under 35 U.S.C. 102(e) as being anticipated by Ringlien (US 6,067,155).

On page 2, lines 7-8, the applicant notes that Ringlien "discloses a near infrared inspection device for transparent glass containers." The examiner notes that Ringlien discloses (column 5, lines 47-48) an inspection technique for both clear and colored glass. (Emphasis added)

Hence, regarding claim 16, Ringlien discloses "a near infrared radiation source (Fig. 1, ref.# 18; column 2, line 15) positioned to emit radiation at a colored article (column 5, lines 47-48); and a detector (Fig. 1, ref.# 28) positioned to measure radiation returned from or passed through said colored article."

Regarding claim 17, Ringlien discloses "processing unit (Fig. 1, ref.# 30) capable of providing an image or process control data."

Regarding claim 18, Ringlien discloses "wherein said radiation source is selected from the group consisting of incandescent lamps, quartz lamps, halogen lamps, arc lamps, metal oxide lamps, light emitting diodes and lasers." (Fig. 1, ref.# 18)

Regarding claim 19, Ringlien discloses "wherein said radiation source emits radiation between about 700 nm to about 2000 nm." (Column 3, lines 3-4)

Regarding claim 20, Ringlien discloses "wherein said radiation source emits radiation between about and preferably from about 700 nm to about 1100 nm." (Column 3, lines 3-4)

Regarding claim 21, Ringlien discloses "wherein said detectors is selected from the group consisting of electronic photodetectors, thermal detectors, linear detector arrays

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and electronic cameras with wavelength sensitivity in the near infrared.” (Column 3, line 10)

Regarding claim 22, Ringlien discloses “optical filters that block visible wavelengths but transmits near infrared wavelengths and are used with the radiation source, detector or both.” (Fig. 1, ref.# 32)

Regarding claim 23, Ringlien discloses “wherein said process control data is used to control a process for forming or handling said article.” (Fig. 1, ref.# 30)

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-15 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ringlien (US 6,067,155) in view of Plester, et al. (US 5,067,616).

Ringlien discloses all the structure set forth in the claim (See 35 U.S.C. 102(e) Rejection above), except wherein the item being exposed is a “plastic” article. However, container inspection systems and methods routinely test both glass and plastic containers. (See Plester, column 1, line 17). Thus, it would have been obvious to the ordinary artisan to utilize the apparatus and methods set forth in Ringlien to evaluate “a plastic colored article.” The ordinary artisan would have been motivated to utilize the apparatus set forth

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in Ringlien to evaluate "plastic" containers, since plastic materials tend to absorb a variety of organic compounds and there is a need to detect containers that may have absorbed contaminants (See Plester, column 1, lines 35-42).

*Conclusion*

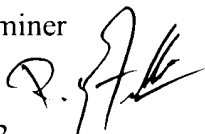
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Kohler, et al. (US 5,466,927), Kotszsch, et al. (US 5,536,935), Powell, et al. (US 5,502,559), Doak, et al. (US 6,497,324), Achter, et al. (US 5,486,693), Sommer, JR. (US 2001/0045518), Peyton (US 4,221,961), Nakatani, et al. (US 3,963,348), Wantanabe (US 4,547,067), and Trischan, et al. (US 5,141,110) each discloses an apparatus and/or method that can be used to show defects in darkly colored plastic articles and darkly colored contents in plastic articles.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney Fuller whose telephone number is (703) 306-5641. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams, can be reached on (703) 308-2847.

Rodney Fuller  
Primary Examiner



May 22, 2003